

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

NATIONAL LIABILITY & FIRE INSURANCE COMPANY	:	
	:	
Plaintiff	:	
v.	:	Civil Action No. 2:18-cv-01129-NBF
	:	
BRIMAR TRANSIT, INC.	:	
	:	
Defendant.	:	
and	:	
	:	
PITTSBURGH PUBLIC SCHOOL DISTRICT	:	
	:	
Intervenor-Defendant	:	

**NATIONAL LIABILITY & FIRE INSURANCE COMPANY’S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

Plaintiff National Liability & Fire Insurance Company (“National”), by and through its undersigned counsel, and pursuant to FEDERAL RULES OF CIVIL PROCEDURE 9(c) and 12(c), respectfully moves for judgment in its favor on the pleadings with respect to its Second Amended Complaint and defendant Pittsburgh Public School District’s Counterclaim. In support of the Motion, National submits a supporting Memorandum of Law which affirmatively establishes that National is entitled to judgment as a matter of law with respect to (i) its Complaint, and (ii) the counterclaim of defendant, Pittsburgh Public School District. The Underlying Action fails to allege bodily injury resulting from the use of a covered “auto,” and therefore coverage does not exist under the business auto insurance contract between National and Brimar. Additionally, the “Abuse or Molestation Exclusion” contained in the National policy of insurance plainly precludes coverage for the Underlying Action, which is a claim for damages arising from sexual abuse and

molestation. Furthermore, and separately, defendant School District is not entitled to coverage because it fails to qualify as an “Insured” under any insurance policy issued by National; and, even if it did (it does not), the policy does not apply for the aforesaid reasons.

Respectfully submitted,

Dated: April 3, 2019

**COZEN O’CONNOR**

/s/Richard C. Mason

Richard C. Mason, Esquire  
(Pro Hac Vice)

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day of April 3, 2019, caused a true and correct copy of the within and foregoing Plaintiff's Motion for Judgment on the Pleadings to be served upon all counsel of record via the Clerk of Court by using the CM/ECF system, which will automatically send email notification of such filing to all counsel of record for the parties:

Respectfully submitted,

**COZEN O'CONNOR**

/s/Richard C. Mason

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